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IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

IN RE:

ANTHONY KERR,

Debtor.

Chapter 13

Case No. 1-23-42356 (NHL)

**DECLARATION OF BRYAN D. LEINBACH IN SUPPORT OF
APPLICATION FOR EXPEDITED HEARING**

BRYAN D. LEINBACH, pursuant to 28 U.S.C. §1746, declares:

1. I am an attorney admitted to practice before this Court and a member of Zeichner Ellman & Krause LLP, attorneys for Constitution CR, LLC (“CCL”). I make this declaration in support of CCL’s motion for an Order scheduling a hearing on shortened notice pursuant to Bankruptcy Rule 9006(c) and Local Rule 9077-1 to consider CCL’s separate motion (the “Lift Stay Motion”) for an Order: (i) pursuant to 11 U.S.C. § 362(d)(1) and (2) and Bankruptcy Rule 4001, granting CCL relief from the automatic stay to allow CCL to proceed with its state law remedies, including a foreclosure sale of real property located at 1430 Pacific Street, Brooklyn, New York 11216 (the “Property”), to the extent that the debtor Anthony Kerr (the “Debtor”) retains any interest in the Property; (ii) pursuant to 11 U.S.C. § 362(d)(4), 11 U.S.C. § 105(a), and Bankruptcy Rule 4001, granting CCL *in rem* prospective relief from the automatic stay providing that in any

subsequent bankruptcy filing by any party claiming an ownership interest in the Property, the automatic stay will not bar CCL from proceeding with state law remedies against the Property, including a foreclosure sale, for a period of one year from entry of the Order; and (iii) granting such other and further relief as the Court deems just and proper.

2. CCL's application for an expedited hearing should be granted on the following basis:

(a) This is the third bankruptcy filed relating to the Property, all of which have effectively halted and delayed CCL and its predecessor from proceeding with a foreclosure sale against the Debtor and any other occupants;

(b) All bankruptcy petitions filed by the Debtor were filed with a skeletal petition in an attempt to illegitimately hinder and delay CCL and its predecessor from securing the Property;

(c) The instant bankruptcy case will likely be dismissed by the clerk as a deficient filing; and

(d) The Debtor and/or related entities will continue to abuse the power of the Bankruptcy Code if CCL is not granted an expedited hearing to determine relief.

3. A proposed order scheduling the hearing on shortened notice is annexed hereto.

4. No prior application has been made for the relief requested herein. I declare under penalties of perjury that the foregoing is true and correct.

WHEREFORE, CCL respectfully requests that its application be granted in its entirety and for such other and further relief as this court deems just and proper.

Dated: August 9, 2023

/s/ Bryan D. Leinbach

BRYAN D. LEINBACH